

[REDACTED]
[REDACTED]
[REDACTED]
FEB 25 1980

CERTIFIED MAIL

GENTLEMAN:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

The information submitted discloses that you were incorporated under the laws of the State of [REDACTED] on [REDACTED].

The purpose of the association is to provide for and attend to the maintenance, improvement, use, and repair of the association's property situated in [REDACTED].

Your Bylaws provide that members are those persons who own one or more lots in [REDACTED].

The activities of the association are maintaining and improving the roads and community property within the [REDACTED] area. Community property consists of waterfront beach land, a boat ramp and pier. The roads and community property have been deeded to and are owned by the association as of [REDACTED]. The roads and community property are not open to the general public. They are restricted for the use of any member or member's guest. Of the [REDACTED] total lots in the development, [REDACTED] lots remain for sale by the developer.

Your income is from dues. Expenditures are for road maintenance and improvement, liability insurance, attorney fees, community property improvement, landscape entrance sign, postage, stationery, printing, hall rental, contingency, dues and taxes.

Section 501(c)(4) of the Code provides for the recognition of exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 72-102, 1972-1 C.B., page 149 states that a non-profit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks and common areas for use of the residents is exempt under section 501(c)(4) of the Code. Membership is required of all owners of real property in the development and assessments are levied to support the organization's activities. It was held that by maintaining the property normally maintained by a municipal government, the organization served the common good and general welfare of the people of the community.

Revenue Ruling 74-99, 1974-1 C.B., page 131, modified Revenue Ruling 72-102 by stating guidelines under which a homeowners association could qualify for exemption under section 501(c)(4) of the Code. These guidelines are:

1. The organization must serve a "community" which bears a reasonable, recognizable relationship to an area ordinarily identified as a governmental unit;
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. The common areas or facilities must be for the use and enjoyment of the general public.

Revenue Ruling 74-99 states that Revenue Ruling 72-102 "...was intended only to approve ownership and maintenance by a homeowners association of such areas as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public, as distinguished from controlled use or access restricted to the members of the homeowners association..."

Your common areas and facilities are not open for the use and enjoyment of the general public. Therefore, you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(4) of the Code.

Based on the information submitted, exempt status will not be recognized under any related paragraph of the Internal Revenue Code section 501(c).

[REDACTED]

You are not relieved of the requirements for filing Federal income tax returns.

Your attention is called to section 528 of the Internal Revenue Code which was added by the Tax Reform Act of 1976. This section provides that, in certain circumstances, a homeowners association may elect not to be taxed on its "exempt function income" which includes memberships dues, fees or assessments from owners of real property. The election is made by filing Form 1120H, if you determine that your organization qualifies under section 528.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your requests for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office or, if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]

District Director

Enclosure: Publication 892